

**ENVIRONMENTAL PROTECTION COMMISSION[567]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 455B.474(3)“d,” the Environmental Protection Commission adopts an amendment to Chapter 135, “Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks,” Iowa Administrative Code.

Notice of Intended Action to rescind paragraph 135.5(1)“e” and adopt a new paragraph 135.5(1)“e” in lieu thereof was published in the Iowa Administrative Bulletin on January 9, 2013, as **ARC 0560C**. The amendment was also Adopted and Filed Emergency and published as **ARC 0559C** on the same date. An Amended Notice of Intended Action was published in the Iowa Administrative Bulletin on July 24, 2013, as **ARC 0836C**. The Amended Notice proposed to rescind the paragraph 135.5(1)“e” that was Adopted and Filed Emergency (**ARC 0559C**) and to adopt a new paragraph 135.5(1)“e” that would change certain leak detection and notification requirements applicable to unstaffed facilities operating underground storage tank (UST) systems with pressurized piping. “Unstaffed facilities” are those facilities that do not have an operator present on-site at all times when the UST system is operating and available to dispense fuel to a customer.

The new paragraph 135.5(1)“e” proposed in the Amended Notice and adopted herein allows current in-line leak detection methods to be used when the UST facility is unattended, with additional requirements to ensure that detected releases are addressed. The paragraph allows for immediate shutdown of the submersible pump when a release is detected. In the alternative, the paragraph allows for the restriction of the flow of product or the triggering of an audible or visual alarm when a leak is detected and either notification to or a daily visit by the facility’s operator or designee. Notification can occur either by immediate electronic communication of a release from the leak detection monitor or by signage at the site with a telephone number directing the customer to call the Class B operator or designee when a potential release is indicated.

The Amended Notice was the result of working with stakeholders to identify leak detection methods that are both cost-effective and environmentally protective. The Notice of Intended Action published on January 9, 2013, as **ARC 0560C** had extended the deadline for unstaffed facility owners to comply with the existing 135.5(1)“e” requirements to January 1, 2014. The extension also allowed time for the Department and stakeholders to work together to address concerns raised following the adoption of paragraph 135.5(1)“e” in **ARC 0559C**.

Following publication of Notice **ARC 0560C**, the Department conducted four stakeholder meetings to discuss and receive suggestions for meeting the intent of the paragraph. Based on extensive public comment, it was determined that an extensive revision to the paragraph would be required, resulting in the Amended Notice of Intended Action published on July 24, 2013, as **ARC 0836C**. The Department continued to work with stakeholders to produce this revised paragraph that addresses the concerns of all parties.

A public hearing was held on August 13, 2013, and no comments were received. No written comments were received during the comment period. This amendment is identical to that published under Amended Notice of Intended Action.

After analysis and review of this rule making, a positive impact on jobs could exist as the new requirements will allow for compliance that is less financially burdensome to the regulated community.

This amendment is intended to implement Iowa Code sections 455B.474 and 455B.474A.

This amendment shall become effective November 20, 2013, at which time the Adopted and Filed Emergency amendment is hereby rescinded.

The following amendment is adopted.

Rescind paragraph **135.5(1)“e”** and adopt the following **new** paragraph in lieu thereof:

*e.* Any UST facility that uses pressurized piping and dispenses product in the absence of a Class A, B, or C operator shall comply with the following requirements:

(1) Employ automatic line leak detectors that do one or more of the following:

1. Shut down the submersible pump when a leak is detected.
  2. Restrict the flow of product when a leak is detected.
  3. Trigger an audible or visual alarm when a leak is detected.
- (2) At facilities implementing 135.5(1) “e”(1)“2” or “3,” the facility’s operator shall be notified or shall conduct a visit through one of the following methods:
1. Notification of the Class B operator by immediate electronic communication.
  2. Signage directing the customer to contact the Class B operator or a designated contact person. The sign must be immediately visible to the customer and state that slow flow or an audible or visual alarm is an indication of a possible release. The sign must provide a 24-hour telephone number of the Class B operator or designee and direct the customer to stop dispensing product.
  3. Daily visit to the site by a Class A, B, or C operator or designee. Visits shall include observation of every automatic line leak detector for shutdown, alarm, or restricted flow conditions. Methods of observing for restricted flow conditions may include dispensing product into a proper container or personal vehicle, observing a customer dispense product into a vehicle, or another method approved by the department. Owners and operators shall maintain an onsite log of site visits to demonstrate compliance with this provision. The log shall include the name of the observer and method used to observe the status of the automatic line leak detectors.
- (3) All UST facilities subject to 135.5(1) “e” must comply with its provisions by July 1, 2014.

[Filed 9/24/13, effective 11/20/13]

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/16/13.